

**VIA EFS**

Date of Deposit: February 5, 2010

Attorney Docket No. 07473-038

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lawrence M. Sherman  
Serial No: 10/817,139  
Filed: April 2, 2004  
For: SYSTEMS AND METHODS OF TARGETING SAVINGS

Examiner: Ojo O. Oyebisi  
Art Unit: 3696

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION REQUESTING WITHDRAWAL OF**  
**ERRONEOUS HOLDING OF ABANDONMENT OF APPLICATION**  
**UNDER 37 C.F.R. § 1.181(a)**

Sir:

Applicant received the attached Notice of Abandonment mailed January 28, 2010 in the above referenced patent application, indicating the Examiner abandoned the application because the Office did not receive a reply to the outstanding Restriction Requirement mailed September 1, 2009.

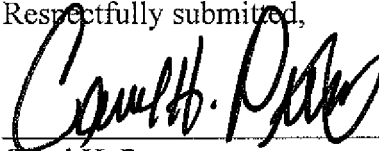
Applicant respectfully submits that the holding of abandonment of the above referenced application is erroneous because the time period for replying to the Restriction Requirement mailed September 1, 2009 expires on March 1, 2010 by extension of time, pursuant to 37 C.F.R. § 1.136. MPEP § 710.02(e) In accordance with § 1.136, if applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five (5) months after the time period set for reply, if a petition for extension of time and the appropriate fee are filed. Applicant, therefore, respectfully submits the time for reply expires on March 1, 2010.

With this Petition under § 1.181(a), Applicant submits herewith the requisite response to the Restriction Requirement, the Petition for Extension of Time, and the appropriate fee set in 37 C.F.R. § 1.17(a). Applicant believes it has complied with the

requirements for this Petition under § 1.181(a) and respectfully requests withdrawal of the holding of abandonment and reinstatement of the above referenced application.

Should the Office have any questions concerning this Petition, the Office is respectfully requested to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carol H. Peters", written over a horizontal line.

Carol H. Peters

Registration No. 45,010

MINTZ, LEVIN, COHN, FERRIS

GLOVSKY and POPEO, P.C.

Attorneys for Applicant(s)

One Financial Center

Boston, MA 02111

Telephone: 617/348-4914

Facsimile: 617/542-2241

email: [cpeters@mintz.com](mailto:cpeters@mintz.com)

Date: February 5, 2010

**Notice of Abandonment**

Application No.

10/817,139

Examiner

OJO O. OYEBISI

Applicant(s)

SHERMAN, LAWRENCE M.

Art Unit

3696

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 01 September 2009.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The applicant has failed to respond to the office action mailed 09/01/2009.

/OJO O OYEBISI/

Primary Examiner, Art Unit 3696

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.